

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
American Family Association	)	File Number EB-02-KC-236
	)	
Licensee of FM Broadcast Station KBKC in Moberly, Missouri	)	NAL/Acct. No.200232560005
	)	
Tupelo, Mississippi	)	FRN 0005-0259-11

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: May 28, 2002

By the Enforcement Bureau, Kansas City Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture, we find that American Family Association, licensee of FM broadcast station KBKC in Moberly, Missouri, willfully violated Section 73.1125 of the Commission's Rules ("Rules")<sup>1</sup> by operating KBKC without a main studio. We conclude that American Family Association is apparently liable for a forfeiture in the amount of seven thousand dollars (\$7,000).

**II BACKGROUND**

2. On April 8, 2002, an agent of the FCC Enforcement Bureau's Kansas City Field Office ("Kansas City Office") attempted an inspection of FM radio station KBKC licensed to Moberly, MO. Investigation revealed no listing for the station in the local telephone directories. The agent went to the KBKC transmitter site and found a sign on the tower with the phone number 662-844-8888. The agent called this number and spoke with Mr. Shan Easterling and Ms. Marsha Schrader of American Family Association in Tupelo, Mississippi. Mr. Easterling and Ms. Schrader stated there was no main studio for KBKC and that the station's public inspection file was located at the Little Dixie Regional Library on 4<sup>th</sup> Street in Moberly. The agent inspected the public inspection file and found no waiver of the main studio rules for the station.

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<sup>1</sup> 47 C.F.R. § 73.1125.

3. During the week of April 15, 2002, the Kansas City Office agent again contacted American Family Association in Tupelo, Mississippi to inquire regarding the tower coordinates, main studio waiver and the EAS installation. The agent was told that information was available from Pat Vaughn who was not in the office at the time but would return soon. The agent left a message for Vaughn to call the agent back, but no call was ever received.

4. On April 16, 2002, the Kansas City Office agent requested from the FCC's Media Bureau a copy of all current authorizations or waivers for KBKC. Media Bureau responded with the latest document consisting of a copy of the station's license. The file contained no authorization for waiver of the main studio rules.

### III DISCUSSION

5. 47 C.F.R. § 73.1125 states that each broadcast station shall maintain a main studio at one of the following locations: (1) Within the station's community of license; (2) At any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) Within twenty-five miles from the reference coordinates of the center of its community of license. American Family Association failed to maintain a main studio for station KBKC. American Family Association neither requested nor received a waiver of the main studio rules for KBKC.

6. Based on the evidence before us, we find that American Family Association willfully<sup>2</sup> violated Section 73.1125 of the Rules by failing to maintain a main studio for KBKC. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for violation of the main studio rule is \$7,000.<sup>3</sup> Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "...the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."<sup>4</sup> Considering the entire record and applying the statutory factors listed above, this case warrants a \$7,000 forfeiture.

### IV ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,<sup>5</sup> and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,<sup>6</sup> American Family Association is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of seven thousand dollars (\$7,000) for willfully violating Section 73.1125 of the Rules.

8. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, American Family Association **SHALL PAY** the full amount of the proposed

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<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>3</sup> 47 C.F.R. § 1.80(b)(4).

<sup>4</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment **MUST INCLUDE** the FCC Registration Number (FRN) and the NAL/Acct. No. referenced in the letterhead above.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street, S.W. Washington, D.C. 20554, ATTN: Enforcement Bureau – Technical & Public Safety Division, and **MUST INCLUDE** the FRN and the NAL/Acct. No. referenced in the letterhead above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operation Group, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.<sup>7</sup>

13. **IT IS FURTHER ORDERED THAT** a copy of this **NOTICE OF APPARENT LIABILITY** shall be sent by Certified Mail Return Receipt Requested to American Family Association at P. O. Drawer 2440, Tupelo, Mississippi 38803.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney  
District Director  
Kansas City Office

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<sup>7</sup> See 47 C.F.R. § 1.1914.